

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**JOSE PEREZ-AGUILAR,**

**Defendant.**

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**8:10CR40**

**FINDINGS AND**

**RECOMMENDATION**

**ON GUILTY PLEA**

On April 7, 2010, defendant Jose Perez-Aguilar (Perez-Aguilar), together with his counsel, Assistant Federal Public Defender Jeffrey L. Thomas, appeared before the undersigned magistrate judge and was advised of the charges, the penalties and the right to appear before a United States District Judge. Laura Garcia-Hein, a certified interpreter in the Spanish language, served as the interpreter. After orally consenting to proceed before a magistrate judge, Perez-Aguilar entered a plea of guilty to Counts II and V of the Indictment.

After being sworn, Perez-Aguilar was orally examined by the undersigned magistrate judge in open court as required by Federal Rule of Criminal Procedure 11. Perez-Aguilar also was given the advice required by that Rule. Finally, Perez-Aguilar was given a full opportunity to address the court and ask questions.

Counsel for the government and counsel for Perez-Aguilar were given the opportunity to suggest additional questions by the court. Moreover, both counsel orally certified that they were of the opinion that the plea was knowing, intelligent and voluntary, and that there was a factual basis for Perez-Aguilar's pleas of guilty to Counts II and V of the Indictment.

Therefore, I find and conclude that: (1) the pleas are knowing, intelligent, and voluntary; (2) there is a factual basis for the pleas; (3) the provisions of Rule 11 and any other provisions of the law governing the submission of guilty pleas have been complied with; (4) a petition to enter a plea of guilty, on a form approved by the court, was completed by Perez-Aguilar, Perez-Aguilar's counsel and counsel for the government, and such

petition was placed in the court file; (5) the plea agreement is in writing and is filed in the court file; (6) there were no other agreements or stipulations other than as contained in the written plea agreement.

**IT IS RECOMMENDED TO JUDGE LAURIE SMITH CAMP that:**

1. She accept the guilty pleas and find the defendant, Jose Perez-Aguilar, guilty of the crimes set forth in Counts II and V of the Indictment to which Perez-Aguilar tendered a guilty plea;
2. She not accept the written plea agreement at this time as it contains a provision under Fed. R. Crim. P. 11(c)(1)(C), but rather she consider the agreement at the time of sentencing.

**ADMONITION**

Pursuant to NECrimR 59.2 any objection to this Findings and Recommendations shall be filed with the Clerk of the Court within fourteen (14) days after being served with a copy of this Findings and Recommendations. Failure to timely object may constitute a waiver of any such objection. The brief in support of any objection shall be filed at the time of filing such objection. Failure to file a brief in support of any objection may be deemed an abandonment of the objection.

DATED this 7th day of April, 2010.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge